IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Appeal From Order No. 31 of 2001
(Old No. 1134 of 2000)

Chabndra Mani S/o Sri Kulanand
R/o Village Nagal
Patti Bhandarayu
Tehsil Dinda
District Uttarkashi ..... Appellant

Vs

1. Maruri Lal S/o Ram Bhorosa
   R/o Village Saund
   Patti Bhandarayu
   Tehsil Dunda
   District Uttarkashi
2. The New India Assurance Company
   Uttarkashi through its
   Manager ..... Respondents

Sri Dinesh Chauhan holding brief of Sri N.S. Negi, learned counsel for the appellant
Sri M.K. Goyal, learned counsel for the respondent No. 2

Hon'ble B.C. Kandpal, J.

This appeal has been preferred under Section 173 of the Motor Vehicle Act for enhancement of the amount of compensation awarded by the claim tribunal vide impugned judgment and award dated 17.06.2000 passed by M.A.C.T., Uttarkashi in M.A.C.T. Case, No. 8 of 1999.

2. Brief facts of the case are that on 20.01.1999, Sri Chandra Mani was traveling from Uttarkashi to his village in Jeep No. UP09 0518 along with his wife and son. The Jeep was being driven by its driver in a rash and negligent manner due to which the jeep met with an accident and fell into the river Ganga. Two passengers died on the spot while other passengers' sustained injuries. According to the claimant he spent Rs. 50,000/- in his treatment. The claimant thus filed the claim petition before the Tribunal concerned for an amount of Rs. 1,72,000/- as compensation.

3. Opposite Party No. 1- Murari Lal was the owner of the offending vehicle and he filed his written statement alleging therein that due to sudden technical defect in the Jeep, its driver lost his control over the offending Jeep and the accident took place. It has further been pleaded that the offending vehicle was insured with the New India Assurance Company at the time of the accident. It has also alleged that the driver of the jeep had a valid driving licence.

4. The opposite party No. 2- The United India Assurance Company Ltd. filed its written statements alleging therein that the left side tyre of the jeep was punctured due to which the driver of the vehicle lost control over the vehicle and fell into the river Ganga. It has further alleged that at the time of the accident the driver was not having valid driving licence and the offending vehicle was also not having the fitness certificate. It has also alleged that the compensation is very exorbitant and the injured has not sustained injuries due to the said accident.

5. On the basis of the pleadings of the parties, the Tribunal concerned has framed the following issued:-

1. Whether the claimant on 20.01.1999 at about 02:30 pm at Dharas Band, District Uttarkashi met with an accident due to rash and negligent driving of the Jeep bearing Registration No. UP09 0518? If so, its effect?
2. Whether the claimant is entitled to receive compensation? If yes, how much and from whom?

6. The Tribunal after having considered the arguments advanced by learned counsel for the appellant and after considering the entire material available on record awarded Rs. 48,000/- along with interest @ 12% per annum in favour of the claimant/injured from the Insurance Company.

7. Being dissatisfied with the amount of compensation, the claimants have filed this appeal for enhancement of compensation.

8. Heard Sri Dinesh Chauhan holding brief of Sri N.S. Negi, learned counsel for the appellant and perused the record.

9. Learned counsel for the appellant first of all argued that the claimant/injured was doing the business hotel and used to earn Rs. 500/- per day.

10. I do not find any force in the argument advanced by learned counsel for the appellant, as he has not produced any evidence in support of his argument.

11. Learned counsel for the appellant/claimant has argued that the impugned judgment and award in relation to the compensation is against the weight of the evidence on record as the Tribunal has wrongly calculated the amount of compensation without looking into the material available on the record.

12. Learned counsel for the appellant has further argued that the injured/claimant spent Rs. 50,000/- on his medical treatment and the learned trial court shown 25% medical disability of the injured.

13. I also do not find any force in the argument advanced by the learned counsel for the appellant. The tribunal after having considered all the material available on record came to the conclusion that the injured spent about Rs. 17,000/- on his medical treatment. The tribunal has awarded Rs. 2,250/- as financial loss and Rs. 2,250/- labour charge, Rs. 10,000/- for food expenses, Rs. 17,000/- expenses on medical treatment which comes to Rs. 48,000/-.

14. I do not find any infirmity in the impugned judgment and award. The Tribunal has made the appropriate calculation in awarding the amount of compensation. I also come to the conclusion that the impugned judgment and award passed by the Tribunal does not require any interference. I find myself in total agreement with the finding recorded by the Tribunal. The Tribunal has rightly awarded a sum of Rs. 48,000/- as compensation to the appellant.

15. The appeal lacks merit and is liable to be dismissed.

16. Accordingly, the appeal is dismissed.

(B.C. Kandpal, J.)

30.10.2006
ASWAL